

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

OVIDIO PEREZ SANCHEZ,

Defendant.

X

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16-CR-661 (ARR)

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NOT FOR ELECTRONIC
OR PRINT PUBLICATION

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OPINION & ORDER

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v

ROSS, United States District Judge:

I am in receipt of a letter titled “Judicial Consideration Request” filed, *pro se*, by Ovidio Perez Sanchez in this matter. Mr. Sanchez’s letter asks me to order the Bureau of Prisons (“BOP”) to apply time credits Mr. Sanchez has accrued under the First Step Act (“FSA”) to his sentence and recalculate his release date. Mr. Sanchez, who says he has been served with an immigration detainer but is not subject to a final order of removal, argues that the BOP is violating the law by denying him FSA Time Credits (“FTCs”) due to his unresolved immigration status. Mr. Sanchez is currently confined in Florida.

Though Mr. Sanchez's letter has been docketed as a motion under the First Step Act, I find that the request does not state a cognizable legal claim upon which I can grant relief. To the extent that Mr. Sanchez intended to (or wishes to) file a petition for a writ of habeas corpus under 28 U.S.C. § 2241, I note that the proper jurisdiction for such a challenge would generally be the federal judicial district in which he is presently physically confined. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

However, I want to advise Mr. Sanchez—to the extent he is not already aware—that the Bureau of Prisons recently amended its procedures for the implementation of time credits under

the First Step Act. The BOP's revised policy, which I enclose with this order, deleted the text that purported to bar the application of FTCs to the sentences of inmates subject to immigration detainees. Given this change in policy, which appears to give Mr. Sanchez the very relief he seeks, I encourage Mr. Sanchez to pursue and exhaust his available administrative remedies before petitioning the federal courts for further relief.

SO ORDERED.

/s/
Allyne R. Ross
United States District Judge

Dated: February 23, 2023
Brooklyn, New York